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**NOTICE OF VIOLATION
U.S. DOE FERNALD
OH6 890 008 976**

12/06/89

**USEPA/DOE-FSO
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LETTER**

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
230 SOUTH DEARBORN ST.
CHICAGO, ILLINOIS 60604

REFRY TO THE ATTENTION OF

SHR-13

DEC 06 1989

Manager
Oak Ridge Operations
P.O. Box 2001
Oak Ridge, Tennessee 37830-8501

Re: Notice of Violation
U.S. DOE Fernald
CH6 890 008 976

Dear Mr. LaGrone:

The United States Environmental Protection Agency (U.S. EPA) acknowledges the receipt of your November 22, 1989 letter, that responds to U.S. EPA's November 16, 1989, notice that the U.S. Department of Energy (U.S. DOE) is required to pursue access to private properties surrounding the Feed Materials Production Center. The purpose of this letter is to clarify the status of the access issue.

The current situation regarding access is as follows:

1. On November 17, 1989, Westinghouse signed an access agreement with RL Industries for access to install, sample, and maintain groundwater monitoring wells. This issue appears to be resolved;
2. Access to the CSX property, north of New Haven Road, will be required if contaminants are detected in the Roy property monitoring wells. If contaminants are detected in the Roy property monitoring wells, U.S. DOE should gain access to the CSX property within fifteen (15) days. No further consultation with U.S. EPA regarding the need to gain access is required. This issue appears to be resolved for now;
3. U.S. DOE's direct access to piezometers installed by the Paddys Run Potentially Responsible Parties (PRPs) is required immediately. These piezometers are located on several different properties. As previously explained to U.S. DOE technical staff and consultants, Fernald remedial personnel must resurvey and take monthly water level measurements of these piezometers. U.S. EPA and U.S. DOE technical staff and consultants are in agreement that the Paddy's Run PRPs data from these piezometers is highly suspect and have

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concluded that they are either taking water level measurements incorrectly or improperly surveying the piezometer locations. U.S. DOE contractors need to be performing this work themselves to maintain quality assurance standards that are in the approved quality assurance program plan (QAPP) for the remedial investigation and feasibility study (RI/FS). Otherwise, U.S. DOE would be in violation of the approved QAPP and RI/FS work plan. As previously communicated to U.S. DOE, reliance on the Paddy's Run PRPs for this very important information is not acceptable. It is U.S. DOE's responsibility to characterize the contaminant plume that has been known to extend onto private property for at least the last seven years. This issue is still open; and

4. Access for the additional wells to characterize the southern contaminant plume are still required. Contamination has spread beyond the current well locations and U.S. EPA is waiting for U.S. DOE's proposal for well locations that includes CSX and other private properties. During the cleanup agreement negotiations, U.S. DOE informed U.S. EPA that the well proposal would be forwarded to U.S. EPA well in advance of the December 15, 1989, date requested by U.S. DOE to be cited in the cleanup agreement. U.S. DOE confirmed this verbal agreement during the November 26, 1989, negotiations. This issue is still open.

In summary, U.S. DOE is required to gain access to the CSX property adjacent to the Roy property, if contamination is found in the Roy property monitoring wells. U.S. DOE should attempt to gain voluntary access to the piezometers installed by the Paddy's Run PRPs within ten (10) days. If U.S. DOE is not successful in gaining voluntary access, access authorities of 104(e) of SARA should be immediately exercised. Hopefully, this letter will further clarify the issues regarding U.S. DOE's need to make progress on completion of characterization work for the south groundwater contamination plume.

Please contact me directly, if there are any questions regarding this matter.

Sincerely yours,

David A. Ullrich
Associate Director, Office of RCRA
Waste Management Division

cc: Maury Walsh, Deputy Director, OEPA
Graham Mitchell, OEPA - SWDO
Jack Van Kley, Assistant Ohio Attorney General
Leo Duffy, Special Assistant to Secretary, U.S. DOE
Raymond P. Berube, Deputy Assistant Secretary, U.S. DOE
Grover Smithwick, Deputy Manager, U.S. DOE

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bcc: Frank Covington, Deputy Regional Administrator
Rose Freeman 5RA-14
Bill Constantelos, WMD
William Muno, WMD
Don Bruce, WMD
Peg Andrews, ORC
Christopher Grundler, OS-530

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